

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In Re: Chapter 11

CORT & MEDAS ASSOCIATES, LLC, Case No.: 19-41313 (CEC)

Debtor.

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**ORDER WITH RESPECT TO THE CLAIMS OF 1414
UTICA AVENUE LENDER LLC AND EMPIRE STATE
CERTIFIED DEVELOPMENT CORPORATION**

Upon the application of 1414 Utica Avenue Lender LLC (“1414 Lender”), dated May 12, 2020, seeking the entry of an Order (i) pursuant to 11 U.S.C. §§ 101(5), 105(a), 501(a) 502(a) and Federal Rules of Bankruptcy Procedure 3001, 3007, 3012 (a) declaring that 1414 Lender is the holder of Claim No. 7-1 (“1414 Lender’s Claim”) pursuant to, inter alia, that first lien mortgage encumbering the real property of the Debtor commonly known as 1414 Utica Avenue, Brooklyn, New York (the “Property”), (b) which is entitled to payment prior in time to any claim (or lien) of mortgagee, Empire State Certified Development Corporation (“ESCDC”), and to the extent that this Court determines that ESCDC should otherwise be entitled to payment on account of the proof of claim filed by ESCDC (Claim No. 6-1) (“ESCDC’s Claim”) prior in time to that of 1414 Lender, alternatively, (c) determining that the amount of the ESCDC Claim to be entitled priority as of March 31, 2020 was not more than \$154,995.00, and (ii) granting 1414 Lender such further and different relief as the Court may deem just and proper [ECF Doc#111 & 112] (the “Motion”); and ESCDC having filed a response to the Motion on June 17, 2020 [ECF Doc#116] (the “ESCDC Response”); and 1414 Lender having filed a reply to the ESCDC Response on June 24, 2020 [ECF Doc#121]; and upon all the pleadings and proceedings had in this case; and upon the record of the hearing held on June 24, 2020 with regard to the Motion; and after due deliberation and sufficient cause appearing therefor; and for the reasons set forth on the record at the hearing, which are hereby incorporated by reference as the Court’s findings of fact and conclusions of law;

IT IS HEREBY:

ORDERED, that the Motion be, and is hereby DENIED to the extent set forth herein; and it is further

ORDERED, that 1414 Lender's Claim is senior to ESCDC's Claim with respect to principal and non-default rate interest; and it is further

ORDERED, that 1414 Lender remains bound by the terms and conditions of the Third Party Lender Agreement, dated December 29, 2009 (the "Intercreditor Agreement"), and is therefore subordinated to the ESCDC as set forth in the Intercreditor Agreement; and it is further

ORDERED, that pursuant to the terms of the Intercreditor Agreement, that portion of 1414 Lender's Claim relating to Default Charges, as defined in the Intercreditor Agreement including "escalated interest after default due under the Third Party Loan," in the amount of \$569,204.10 as set forth in Exhibit Z to 1414 Lender's Motion [ECF Doc # 111-33], is subordinated to ESCDC's Claim; and it is further

ORDERED, this Court retains jurisdiction to resolve all matters arising under or related to this Order, and to interpret, implement, and enforce the provisions of this Order.

Dated: Brooklyn, New York
August 10, 2020



Carla E. Craig

Carla E. Craig
United States Bankruptcy Judge